

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division

MONTE DECARLOS WINSTON,

Petitioner,

v.

Civil Action No. 3:12CV172

UNITED STATES ATTORNEY GENERAL,

Respondent.

MEMORANDUM OPINION

By Memorandum Opinion and Final Order entered August 1, 2013, the Court dismissed Monte DeCarlos Winston's petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241¹ ("Present § 2241 Petition") for abuse of the writ. (ECF Nos. 16-17.) The Court also placed certain prefiling restrictions on Winston on any new action challenging the calculation or execution of his

¹ That statute provides, in pertinent part:

(c) The writ of habeas corpus shall not extend to a prisoner unless—

(1) He is in custody under or by color of the authority of the United States or is committed for trial before some court thereof; or

(2) He is in custody for an act done or omitted in pursuance of an Act of Congress, or an order, process, judgment or decree of a court or judge of the United States; or

(3) He is in custody in violation of the Constitution or laws or treaties of the United States

sentence. (See ECF No. 17, at 1-2.) Specifically, the Court directed:

7. From this point forward, before the Court will review any new action challenging the calculation or execution of his sentence, Winston must do the following:
 - a. Provide a brief summary of why the ends of justice warrant consideration of his submission and attach the summary to the front of any filing; and,
 - b. Certify that the claims he wishes to present are new claims never before raised and disposed of on the merits by any federal court and set forth why each claim could not have been raised in one of his previous actions.

Winston's failure to comply with the above directives will result in summary dismissal of the new action.

(Id.)

Winston now brings a "Motion Pursuant to Rule 12(b)(2) of F.R.Civ.P. to Immediately Release Petitioner." (ECF No. 18.) Winston has filed at least three § 2241 petitions challenging the execution of his sentence. (See ECF No. 16, 2-7.) Winston's instant motion is yet another attempt to challenge the BOP's execution of his sentence recast as a "jurisdictional issue." (Mot. 1.)

Winston fails to identify the procedural vehicle that entitles him to relief in this closed action. Moreover, the Court views Winston's current motion as an attempt to circumvent the restrictions placed on Winston in the Court's August 1, 2013

Order for further challenges to the execution of his sentence.
Winston's Motion (ECF No. 18) will be denied.

The Clerk is directed to send a copy of the Memorandum
Opinion to Winston.

Date: *January 27, 2014*
Richmond, Virginia

/s/ RED

Robert E. Payne
Senior United States District Judge